

201209278
Benjamin Cui

An individual standing at the security desk at a mall in Queens observed Sergeant Benjamin Cui and an individual who works for the company that owns the building in which the mall is located enter the mall. The individual recognized Sergeant Cui (who was off duty) and stated that he appeared intoxicated. Sergeant Cui and the man passed a group of people standing in the entrance to the mall and made physical contact with them when they passed. An altercation ensued, during which Sergeant Cui removed his NYPD shield from his waistband and punched one of the people in the face with it. During his CCRB interview, Sergeant Cui acknowledged having an altercation with the individuals in the mall but stated it was a verbal dispute and he denied punching anyone. When he was shown security footage of the incident that showed him punch the individual with his shield, he continued to deny that he had done so. The CCRB substantiated an allegation of excessive force against Sergeant Cui and found that he had made a false official statement. The NYPD put Sergeant Cui on 365 days of probation.

Interview Details

Complainant/Witness:

- [REDACTED] is a [REDACTED]-year-old male of mixed ethnic decent, who stands
- [REDACTED] is employed by [REDACTED].

CCRB Statement

On July 24, 2012, [REDACTED] was interviewed at [REDACTED] in Queens. On July 17, 2012, at approximately 10:30 p.m., [REDACTED] was standing by the security desk in the ground level lobby of the mall. At a distance of thirty to forty feet, the security desk faces a set of doors that constitute the main entrance to the mall, on [REDACTED] [REDACTED] and [REDACTED] (first name unknown) work with [REDACTED] and were also present at this time. V1 (described as an Asian male, who stood 5'8" to 5'10", had a slim to medium build, and was in his early 20s), V2, and W1 were standing near the entrance to the mall. [REDACTED] had previously seen the three individuals with an older woman, who was shopping somewhere inside the mall. [REDACTED] surmised that they were waiting for her to finish shopping. Nothing about their behavior caused [REDACTED] to be suspicious or concerned with them [REDACTED].

PO1 (described as an Asian male, who stood 5'10", had a medium to heavy build, was in his late 30s to early 40s, was dressed in a light-colored shirt, beige shorts, and sandals, and was named "Ben Qui") approached the entrance to the mall with [REDACTED] (described as an Asian male, who had a slim build, was in his mid to late 40s, had black hair, and was dressed in white jeans and a black tee-shirt), the landlord of the building that houses the mall. [REDACTED] identified PO1 by name, having known him for a period of approximately twenty years. [REDACTED] and PO1 were acquaintances during the time they both attended [REDACTED]. Additionally, approximately twenty years ago, [REDACTED] and PO1 both worked as security guards at a different mall. [REDACTED] did not know [REDACTED] first name, but stated that people call him [REDACTED].

PO1 and [REDACTED] appeared intoxicated on the basis of their manner of walking, arms around each other's shoulders, swaying from side-to-side, their red-colored faces, and their slurred and incoherent speech. As PO1 and [REDACTED] entered the mall, PO1 softly pushed V1 out of his way, displacing his body a bit. PO1 and [REDACTED] continued making their way into the lobby of the mall. V1 said something and made hand movements, appearing irate, but made no gestures that appeared physically threatening, nor did he adopt a fighting stance.

PO1 turned and walked back towards V1. "Words" continued to be "exchanged," among the parties involved but [REDACTED] did not make out what was being said—some of it in a foreign language and some of it possibly in English. As PO1 walked toward V1, he lifted or "flipped" his shirt out, exposing a gold shield and a holstered firearm in plain view affixed near the rear of his waistband. ([REDACTED] did not know if the shield and the firearm were visible at this time to V1.) When PO1 reached V1, he shoved V1 with two hands against V1's chest, causing V1 to stagger backwards approximately five feet toward the entrance to the mall.

[REDACTED] followed PO1, and additional conversation was exchanged. PO1 then unclipped his shield with his left hand and struck V2 in the face with it, causing V1 to stagger backwards a few feet. V2 became irate, evidenced by his shouting and hand movements, which also did not appear physically threatening. V2 did not adopt a fighting stance either. PO1 held his hands outward, showing his shield to V2, in a manner that [REDACTED] interpreted as provocative. PO1 turned and continued walking into the lobby of the mall with [REDACTED]. PO1 stopped to say something to [REDACTED] but [REDACTED] was not privy to what was said. [REDACTED] saw that PO1 and [REDACTED] rode the elevator to the third floor. (Aside from KTV, a karaoke lounge that was closed at this time, the Grand Restaurant is the only business on the third floor of the mall.) [REDACTED] assumed that PO1 and [REDACTED] went to the Grand Restaurant. (According to [REDACTED] there is a court-ordered ban on the consumption of alcohol at the Grand Restaurant.) V1, V2, and W1 waited for a little while and eventually left.

[REDACTED] did not witness the following; [REDACTED] informed him of it. Approximately twenty to twenty-five minutes later, PO1, [REDACTED] and a large group of individuals emerged from upstairs, all of them visibly intoxicated. On their way out, they broke some vases in the lobby.

[REDACTED] asked to state the following on the record. On January 8, 2012, PO1 and [REDACTED] went to [REDACTED]. Recently, [REDACTED] has been cited several times for serving alcohol to underage patrons. [REDACTED] stated that [REDACTED] does not serve alcohol to underage patrons and he believes that PO1 has "instigated" the issuance of the citations. Additionally, [REDACTED] has been informed by

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PO2 (identified by name as “Eddie Chu” from the 109th Precinct) that PO1 has a known “drinking problem.” On multiple occasions, other police officers have “covered” for PO1’s drinking problem, which has involved him being intoxicated while on duty. One such police officer was suspended for thirty days without pay as a result of “covering” for PO1.

Interview Details

Subject Officer: SGT BENJAMIN CUI

- SGT Cui is a 40-year-old Asian male, who stands 5'9", weighs 190 lbs., and has black hair and brown eyes.
- On July 17, 2012, SGT Cui was assigned to Fleet Services and ended his tour at approximately 3:00 p.m.

Memo Book

SGT Cui was off duty at the time of this incident.

CCRB Statement

On August 28, 2012, SGT Cui was interviewed at the CCRB. On July 17, 2012, at approximately 10:31 p.m., SGT Cui entered the [REDACTED] in Queens, with [REDACTED] (SGT Cui did not know [REDACTED] first name). (SGT Cui did not recall if they were accompanied by anyone else.) As they approached the front entrance of the mall, which is comprised by several glass doors on the sidewalk and followed by a vestibule, they encountered two to three Asian males blocking the doorway that they were approaching. (SGT Cui did not recall if the party was blocking multiple doorways aside from the one he was attempting to use.) The group was doing nothing that appeared suspicious to SGT Cui.

SGT Cui, who was in front of [REDACTED] said, "Excuse me" at least one time. SGT Cui's request did not recall if he directed his request to any member of the party specifically, but they were clustered closely together. None of the members of the group responded to SGT Cui. SGT Cui was not sure if they had heard his request or if they had heard it and decided to ignore him. (SGT Cui did not recall if any of them were facing him.) A couple seconds transpired and none of them moved. SGT Cui then lightly patted one of the males on the shoulder, displacing him slightly, and moved past through the doorway. [REDACTED] entered behind SGT Cui.

As SGT Cui walked through the lobby of the mall, he heard [REDACTED] exchanging words with at least one member of the group. SGT Cui did not recall the content of the exchange, and he did not recall that any voices were raised, but he believed that an argument was taking place. SGT Cui turned and walked back toward [REDACTED] who had stopped walking.

The group of males was walking toward [REDACTED]. One of the males, UNID1, approached within a foot of [REDACTED]. Based on the argument, the individuals' advance, and their proximity, SGT Cui suspected that they may want to fight [REDACTED]. SGT Cui stepped in between UNID1 and [REDACTED] with one or both hands raised in front to keep UNID1 back. (SGT Cui did not recall his arms were outstretched or closer to his own body.) SGT Cui said, "Stop" and stood still but UNID1 continued advancing until his upper body or shoulder area made contact with SGT Cui's hand(s). SGT Cui may have also identified himself as a police officer at this time but was unsure. UNID1 stepped back in response to the contact. SGT Cui did not push UNID1; rather, UNID1 had walked into SGT Cui's hand(s).

SGT Cui grabbed hold of [REDACTED] and pulled him around to continue into the mall. SGT Cui and [REDACTED] were in a hurry to meet friends. One of the members of the group continued to follow them. The man was saying something, SGT Cui did not recall what. SGT Cui stopped and turned to face the man, who was approximately one to two feet away from him. SGT Cui unclipped his shield from his belt, showed it to the man, identified himself as a police officer, and told the man to step away. The group backed away. SGT Cui replaced his shield, either in his pocket or his waistband, and continued into the mall with [REDACTED]. They did not see the group again that evening.

SGT Cui did not recall when he and [REDACTED] left the mall together. SGT Cui did not damage any property, specifically any vases, on his way out of the mall. Aside from engaging in physical contact with UNID1's upper torso area, SGT Cui did not recall engaging in physical contact with any other members of the group. SGT Cui did not recall hitting or shoving an object into any individual's head.

SGT Cui viewed Video Clip #1. In the first frame, SGT Cui identified himself as the individual wearing a cream-colored short sleeve tee shirt, white cargo shorts, and sandals. SGT Cui identified [REDACTED] as the individual walking with him at his side.

At 9:40 a.m., SBA Rep. John Patton left the interview room and did not return.

SGT Cui viewed Video Clip #2. At 1:10 seconds, SGT Cui identified himself as the individual wearing a short sleeve shirt and white cargo shorts. SGT Cui also identified [REDACTED] as the individual wearing a dark shirt and long white pants. At 1:14 seconds,

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SGT Cui confirmed that the video footage depicted him patting UNID1, wearing a blue shirt, aside as he entered the mall. At 1:31 seconds, SGT Cui confirmed that the video footage depicted UNID1 stepping back approximately two feet as a result of SGT Cui's physical contact with him.

At 9:43 a.m., SBA Rep. Arthur Smarsch requested a break in the interview. At 9:44 a.m., the interview resumed with all parties (excluding SBA Rep. John Patton) present.

SGT Cui viewed the footage immediately preceding the frame stopped at 1:31 seconds and stated that he was not sure if UNID1 stepped backwards as a result of him pushing UNID1. Between 1:34 seconds and 1:39 seconds, SGT Cui identified himself as the individual dressed in a cream-colored shirt, white cargo pants, and sandals standing inside the mall's vestibule. SGT Cui was not sure if the black object affixed to his waistband was a firearm or a cell phone. SGT Cui also confirmed that UNID2, dressed in a light-colored shirt and denim jeans, was in the frame. UNID2's head jerked backwards during this section, but SGT Cui was not sure if he had physically engaged this individual. At 1:51 seconds, SGT Cui confirmed that he was pulling [REDACTED] back towards the lobby of the mall.

SGT Cui viewed Video Clip #3. Between 1:06 seconds and 1:13 seconds, SGT Cui identified himself as the individual dressed in a cream-colored shirt and white cargo shorts patting UNID1 aside as he entered the mall. At 1:19 seconds, SGT Cui confirmed that he, [REDACTED] and a third unidentified individual had stopped inside the mall's lobby. Three males entered the vestibule of the mall behind them. At 1:24 seconds, SGT Cui confirmed that the video depicted him pointing a finger at the three individuals, who were still standing inside the vestibule. [REDACTED] was standing several feet behind SGT Cui. Between 1:27 and 1:30 seconds, SGT Cui confirmed that the video depicted him advancing toward UNID1, who was standing still. At 1:34 seconds, SGT Cui confirmed that the video depicted him having made physical contact with UNID1's upper torso, causing UNID1 to step back. At this time, SGT Cui confirmed that the video depicted him standing inside the vestibule with UNID1 and UNID2. Between 1:31 and 1:37, SGT Cui was unsure that the video depicted him unclipping something from his waistband with his left arm. SGT Cui then pushed UNID2 in his upper torso area but SGT Cui could not confirm that he was holding an object when he did so. SGT Cui amended his earlier statement to reflect that he pushed UNID2 because UNID2 was "standing too close." Between 1:47 and 1:51 seconds, SGT Cui confirmed that the video depicted he and [REDACTED] advanced back towards the lobby, with their backs turned to the group of males. SGT Cui further confirmed that he was holding an object with a folding mechanism, which he stated twice "could be [his] shield." SGT Cui also confirmed that his shield is kept in a folio. At the prompt of his legal representative to confine his remarks to what he remembered, SGT Cui stated that he did not recall the object in his hands was his shield. SGT Cui denied using his shield to strike UNID2.